

REMARKS

In the Notice of Non-Compliant/Non-Responsive Amendment of April 28, 2009 (hereinafter "Notice"), the Examiner alleges that Applicants' Response of February 6, 2009 (hereinafter "Response") is not fully responsive to the Office Action of August 6, 2008 (hereinafter "August 2008 Office Action") because Applicants omitted a "presentation of arguments pointing out the specific distinctions believed to render the claims, including any newly presented claims, patentable over any applied references." Applicants disagree.

I. APPLICANTS RESPONSE IDENTIFIED CLAIM LIMITATIONS NOT SHOWN TO BE DISCLOSED OR SUGGESTED BY THE REFERENCES OF RECORD

A. Independent claims 1 and 5

As discussed in Applicants' Response, independent claim 1 and independent claim 5 have been amended in part to include limitations similar to claims 4 and 8, which the Examiner rejects in view of McGarry paragraphs 68 and 70. In particular, claims 1 and 5 now recite in part:

Claim 1

receiving...from a first broker ... a request by the first broker to manage trading orders, via a trading system, on behalf of a user...;

based at least in part on receiving the request from the first broker, storing ... first data that indicates a relationship between the first broker and the user...;

Claim 5

receive from a first broker ... a request by the first broker to manage trading orders, via a trading system, on behalf of a user...;

based at least in part on receiving the request from the first broker, store first data that indicates a relationship between the first broker and the user...;

McGarry paragraphs 68 and 70 do not disclose or suggest such limitations. In addition, Gilbert and McGarry, alone or in combination, have not been shown to disclose or suggest such limitations.

Independent claims 1 and 5 further recite in part:

Claim 1

based at least in part on the trading message being directed to the user, identifying ..., from at least the first and the second stored data, brokers having a relationship with the user, including identifying at least the first broker and the second broker;

Claim 5

based at least in part on the trading message being directed to the user, identify from at least the first and the second stored data brokers having a relationship with the user, including identifying at least the first broker and the second broker;

As discussed in Applicants' Response, in rejecting claims 1 and 5, the Examiner asserts that similar limitations are disclosed by McGarry paragraph 66. McGarry paragraph 66 does not disclose or suggest such limitations and in particular, does not disclose or suggest "identifying ..., from at least the first and the second stored data, brokers having a relationship with the user" where the first and the second data are stored "based at least in part on receiving the request from the first broker" and "based at least in part on receiving the request from the second broker," as recited by claim 1, and similarly claim 5. In addition, Gilbert and McGarry, alone or in combination, have not been shown to disclose or suggest such limitations.

Applicants further note that in rejecting claims 1 and 5, the Examiner states,

Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify the invention of Gilbert with the teachings of McGarry in order to enhance the efficiency and effectiveness of back office trade processing as taught by McGarry (¶4-¶5). August 2008 Office Action, pp. 6 and 9.

The Examiner is reminded that all factual findings of the Patent and Trademark Office must be supported by substantial evidence. Since motivation to modify is a factual finding, it must be supported by some evidence. The Examiner fails to provide any evidence to support the proffered motivation to modify Gilbert with McGarry. In particular, contrary to the Examiner's assertion, McGarry paragraphs 4-5 make no reference "to enhanc[ing] the efficiency and effectiveness of back office trade processing." Accordingly, the Examiner fails to cite any references or any other evidence for why a person of ordinary skill in the art would have, at the time of the invention, known or desired to modify Gilbert with McGarry in order "to enhance the efficiency and effectiveness of back office trade processing," as the Examiner alleges.

Furthermore, even assuming, as the Examiner alleges, that a person of skill in the art had the desire "to enhance the efficiency and effectiveness of back office trade processing," there is still no evidence that such a person would have sought to accomplish this goal by selectively adding to Gilbert the teachings of McGarry in order to achieve the claimed invention. Thus, the Examiner never establishes a *prima facie* case of obviousness of independent claims 1 and 5.

B. Independent claims 9 and 26

Amended independent claims 9 and 26 recite in part:

Claim 9

receiving ... from a first broker ... a request by the first broker to manage trading orders, via a trading system, on behalf of a user ...;

based at least in part on receiving the request from the first broker, storing ... first data, wherein the first data:

(i) indicates a relationship between the first broker and the user..., and

(ii) indicates an association between:

(a) a connection between the computing server and the trading system ..., and

(b) the relationship between the first broker and the user;

receiving ... from the first broker ... a trading command submitted by the first broker on behalf of the user, the trading command comprising information that identifies the user;

based at least in part on the information from the trading command that identifies the user, identifying ... from the first data the relationship between the first broker and the user;

based at least in part on the association between the connection and the identified relationship between the first broker and the user, identifying ... the connection from the plurality of connections:

Claim 26

receive from a first broker ... a request by the first broker to manage trading orders, via a trading system, on behalf of a user ...;

based at least in part on receiving the request from the first broker, store first data, wherein the first data:

- (i) indicates a relationship between the first broker and the user... and
- (ii) indicates an association between:
 - (a) a connection between the at least one computing server and the trading system ..., and
 - (b) the relationship between the first broker and the user;

receive from the first broker ... a trading command, the trading command comprising information that identifies the user;

based at least in part on the information from the trading command that identifies the user, identify from the first data the relationship between the first broker and the user;

based at least in part on the association between the connection and the identified relationship between the first broker and the user, identify the connection from the plurality of connections;

As discussed in Applicants' Response, in rejecting claim 9 and similarly claim 26, the Examiner asserts that Reed paragraph 61 discloses "identifying ... the connection from the plurality of connections." Reed paragraph 61 does not disclose or suggest the above limitations of claims 9 and 26. In addition, Gilbert and Reed, alone or in combination, have not been shown to disclose or suggest such limitations

In further rejecting claims 9 and 26, the Examiner states,

Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify the method of Gilbert where the trading message is encapsulated within each carrier message with the teachings of Reed to separate the trading message from the carrier message by de-encapsulating the trading message from the carrier message. A person having ordinary skill in the art at the time the invention was made would have been motivated to do so in order to examine the contents of the message and from those contents determine the specific subject on which the outbound message should be published for consumption by the ultimate recipient of the outbound message as taught by Reed. August 2008 Office Action, pp. 15 and 22.

Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify the method of Gilbert with the teachings of Reed in order to insure

that all of the applications relying on the message are processed in a consistent way as taught by Reed, August 2008 Office Action, pp. 16 and 23.

Again, the Examiner is reminded that all factual findings of the Patent and Trademark Office must be supported by substantial evidence. Even assuming, as the Examiner alleges, that a person of skill in the art had the desire "to examine the contents of the message and from those contents determine the specific subject on which the outbound message should be published for consumption by the ultimate recipient of the outbound message," and/or had the desire "to insure that all of the applications relying on the message are processed in a consistent way," the Examiner fails to provide any evidence that such a person would have sought to accomplish these goals by selectively adding to Gilbert the teachings of Reed in order to achieve the claimed invention. Thus, the Examiner never established a *prima facie* case of obviousness of independent claims 9 and 26.

C. Dependent claims

The Examiner is reminded that a claim depending from a nonobvious independent claim is also nonobvious. Accordingly, as discussed in Applicants' Response, because the dependent claims (including the new dependent claims) depend from independent claims 1, 5, 9 and 26, the references of record, alone or in combination, have not been shown to disclose or suggest all the limitations of the dependent claims for at least the same reasons set forth for independent claims 1, 5, 9 and 26.

II. APPLICANTS RESPONSE COMPLIES WITH ALL APPLICABLE REQUIREMENTS

37 C.F.R. § 1.111 sets forth the requirements for a reply to a non-final Office Action:

(b) In order to be entitled to reconsideration or further examination, the applicant or patent owner must reply to the Office action. The reply by the applicant or patent owner must be reduced to a writing which distinctly and specifically points out the supposed errors in the examiner's action and must reply to every ground of objection and rejection in the prior Office action. The reply must present arguments pointing out the specific distinctions believed to render the claims, including any newly presented claims, patentable over any applied references. . . .

(c) In amending in reply to a rejection of claims in an application or patent under reexamination, the applicant or patent owner must clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made. The applicant or patent owner must also show how the amendments avoid such references or objections.

Since Applicants have, for each independent claim, (a) identified particular claim limitations, and (b) indicated how each of the references of record have not been shown to disclose or suggest these limitations, Applicants have replied to all grounds of rejection, and have pointed out the specific distinctions (i.e. at least the identified limitations) believed to render the claims patentable over any applied references.

Applicants have thus also clearly pointed out the patentable novelty (i.e. at least the identified limitations) that the claims present in view of the references cited, and have shown how the amendments avoid such references (i.e. at least because of the identified limitations not being shown to be disclosed or suggested by the references).

Page 2 of the Notice appears to concede that Applicants have already indicated which newly added limitations of the independent claims are believed to be different from the prior art, and thus that Applicants have pointed out the patentable novelty (i.e. at least the identified limitations) that the claims present in view of the references cited, and how the claim amendments avoid the references.

III. THE NOTICE IMPOSES REQUIREMENTS NOT BASED ON ANY REGULATION OR STATUTE

However, the Notice appears to impose an additional requirement that the Applicant also "point[] out how the claims are distinct from and thus overcome the prior art." This is not a requirement imposed by 37 C.F.R. § 1.111(b) and (c), or by any other regulation or statute. Note that the terms "distinct from" and "overcome" do not appear in 37 C.F.R. § 1.111, and Applicants are not obliged to satisfy these factitious standards.

Further, it is not even clear exactly how one would demonstrate "how the claims are distinct from" the cited prior art, if this were not already done by (as Applicants have done)

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pointing out claim limitations and presenting arguments why none of these limitations are disclosed or suggested by the references of record, alone or in combination.

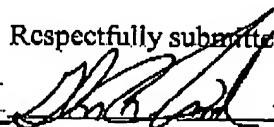
IV. AUTHORIZATION FOR EMAIL COMMUNICATIONS

Recognizing that Internet communications are not secure, Applicants hereby authorize the USPTO to communicate with any authorized representative concerning any subject matter of this application by electronic mail. Applicants understand that a copy of these communications will be made of record in the application file.

V. CONCLUSION

In view of Applicants' February 2009 Response and the remarks set forth herein, Applicants respectfully submit that the claims are in condition for allowance. Applicants request that the application be passed to issue in due course. The Examiner is urged to telephone the undersigned representative at the number noted below if it will advance the prosecution of this application, or with any suggestion to resolve any condition that would impede allowance.

Respectfully submitted,


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Date